

By post and by email at fsbab_consultation@sb.gov.hk

13 September 2022

B Division, Security Bureau
- Public Consultation on the
Proposed Amendments to the
Fire Safety (Buildings) Ordinance (Cap. 572)
9/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Sir/Madam

**Views from The Hong Kong Institution of Engineers
Regarding Proposed Amendments to
Fire Safety (Buildings) Ordinance (Cap. 572)**

On behalf of the Institution, I am pleased to present to you our views and suggestions as set out in the enclosure for your consideration on the captioned subject.

With our expertise and experience, the Institution welcomes the opportunity to work with the Government on the area of concern if and when it is needed.

Thank you.

Yours faithfully



Ir Aaron BOK
President

Enclosure

**Views from The Hong Kong Institution of Engineers
Regarding Proposed Amendments to
Fire Safety (Buildings) Ordinance (Cap. 572)**

Fire safety is crucial in building designs, especially in a city as densely populated as Hong Kong. The Fire Safety (Buildings) Ordinance (Cap. 572) (“Ordinance”) brought into effect in 2007 regulates about 13,500 composite and domestic buildings (“Target Buildings¹”) to date, obligating these Target Buildings be enhanced to meet modern fire protection requirements.

2. Despite the cross-departmental financial, technical and coordination support offered by the Government, over half of the 316,000 Directions issued to owners and/or occupiers of Target Buildings to provide appropriate fire service installations and equipment (“FSIs”) and/or carry out works in relation to fire safety construction are not complied with.

3. The Hong Kong Institution of Engineers (“HKIE”) considers it of utmost importance to step up safeguarding public safety and property, hence acknowledges the need to empower the enforcement authorities (“EAs”) to carry out fire safety improvement works for owners of Target Buildings to handle the noncompliance and to recover the relevant fees afterwards. The HKIE welcomes the ten proposed amendments put forward by the Security Bureau relating to the default works mechanism and encouraging owners to comply with the requirements on their own initiative, financial support, providing additional means for owners/occupiers to receive documents, and providing information to the public and prospective property buyers.

Default Works Mechanism

4. The HKIE agrees that a mechanism for default works should be formulated with due consideration of multiple factors when setting the threshold so that owners of Target Buildings with genuine needs can obtain the required support. These factors include, but are not limited to, whether the owners have complied with Directions or Fire Safety Compliance Orders (“FSCOs”), inherent obstacles in the coordination of fire safety improvement works or due to missing/untraceable owners, whether the EAs have exhausted their powers under the Ordinance to cause compliance but to no avail, and other fire safety risks.

5. To facilitate the orderly execution of default works, it is agreed that the terms of reference of the two Advisory Committees to (i) give advice to the EAs on the criteria of prioritisation for eligible Target Buildings to facilitate the EAs in determining the

¹ Composite and domestic buildings constructed on or before 1 March 1987, or with the plans of the building works first submitted to the Building Authority for approval on or before that day

number of default works to be carried out per year, as well as the priority and the timeframe of these default works; and (ii) give technical advice to EAs on the default works proposals involved in those more controversial cases to help EAs decide on the final works option.

6. EAs should be empowered to, upon completion of default works for the owners, recover the relevant fees, including the cost and a 20% surcharge. However, it is suggested that the surcharge be prudently imposed, and criteria be set out to define deprived/needy owners for reducing/waiving the surcharge. In addition to referring to a transparent standard which could facilitate objective decision-making and expedite the administration procedures, the EAs may still exercise discretion in evaluating each individual scenario as the case may be.

7. In ensuring that the default works are carried out as needed to safeguard the public, the HKIE supports incorporating provisions similar to that of Buildings Ordinance (Cap. 123) (“BO”), which stipulates that any person who obstructs the Building Authority or its authorised officers in the exercise of their powers under BO shall be guilty of an offence and liable on conviction to a fine at level 3 (the maximum fine is HK\$10,000) and to imprisonment for 6 months, into the Ordinance to prevent any person from obstructing the EAs in carrying out default works.

Encouraging Owners to Comply with the Requirements on Their Own Initiative

8. The HKIE is of the view that by extending the EAs’ authority to register Directions in Land Registry, prospective property owners may make a more informed decision understanding their potential legal liability, which also helps protect their rights. It is also agreed that the new property owners should notify the EA concerned of the transfer of interests in land within three months upon completion of property transactions if there are Directions or FSCOs which have yet to be complied with. This arrangement can ensure the new property owners are given a clear notice of their legal obligations, which in turn also help the EAs to get in touch with the new owners, curtailing future non-compliance with the Directions or FSCOs.

9. To effectively enhance deterrence against uncooperative owners, the HKIE supports reviewing the penalty levels, and raise non-compliance with Direction and FSCO to HK\$100,000 and HK\$200,000, respectively, and a further fine of HK\$10,000 and HK\$20,000 for each day during which the offence continues, respectively.

10. Furthermore, owners’ corporation (“OC”) plays an important role in taking actions in accordance with the Ordinance. To help OCs to work towards compliance, it is agreed that a mechanism against uncooperative owners referencing BO can be incorporated into the Ordinance.

Financial Support

11. Considering that financial difficulties are a major barrier for Target Buildings to comply with the requirements, the HKIE supports further injection of funding to the Fire Safety Improvement Works Subsidy Scheme to help cover eligible buildings that need to undergo default works, regardless of whether the buildings have OCs set up.

Providing Additional Means for Owners/Occupiers to Receive Documents

12. The HKIE has no objection to serving documents on owners/occupiers via facsimile transmission, electronic mail or by posting them at a conspicuous place inside the premises concerned.

Providing Information to the Public and Prospective Property Buyers

13. Disclosing information on Directions, FSCOs and Prohibition Order via departmental websites is considered appropriate in enabling better knowledge of the outstanding legal liabilities of the Target Buildings especially among the prospective buyers/tenants of Target Building units. In fact, upon registration of Directions in Land Registry, relevant authorities may consider including such information in the Land Records, so that the prospective buyers/tenants, who may also via their real estate agents, obtain a comprehensive overview of the Target Building units.